

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAGHVENDRA SINGH,

Petitioner,

v.

CHRISTIAN PFEIFFER,

Respondent.

Case No. 2:21-cv-01731-TLN-JDP (HC)

ORDER DENYING PETITIONER’S MOTION
TO APPOINT COUNSEL

ECF No. 31

FINDINGS AND RECOMMENDATIONS
THAT RESPONDENT’S MOTION TO
DISMISS BE GRANTED

OBJECTIONS DUE IN FOURTEEN DAYS

ECF No. 28

Petitioner Raghvendra Singh filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Respondent moves to dismiss the petition, ECF No. 28, and argues that the petition must be dismissed because state court proceedings are ongoing. Petitioner has opposed the motion and moved to appoint counsel. ECF No. 31. The motion to dismiss should be granted.

No habeas rule specifically applies to motions to dismiss. *See Hillery v. Pulley*, 533 F. Supp. 1189, 1194 (E.D. Cal. 1982) (“Motion practice in habeas corpus is not specifically provided for in the rules but must be inferred from their structure and the Advisory Committee Notes.”). The Ninth Circuit construes a motion to dismiss a habeas petition as a request for the court to dismiss under Rule 4 of the Rules Governing § 2254 Cases, however. *See O’Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1991). Under Rule 4, I evaluate whether it “plainly appears” that the petitioner is not entitled to relief and, if so, recommend dismissal of the petition.

Respondent argues that petitioner’s conviction is not final because his conviction in state court was not final at the time the petition was filed, and proceedings remain ongoing as of the

1 filing of the instant motion. ECF No. 28 at 2; ECF No. 30-1 at 2. Respondent contends that,
2 under the abstention doctrine in *Younger v. Harris*, 401 U.S. 37 (1971), I must dismiss
3 petitioner's habeas claims because they implicate pending state criminal proceedings. I agree.

4 *Younger* abstention is required where: (1) state proceedings are ongoing; (2) the
5 proceeding implicates important state interests; (3) the plaintiff is not barred from litigating
6 federal constitutional issues in the state proceeding; and (4) "the federal court action would enjoin
7 the proceeding or have the practical effect of doing so, i.e., would interfere with the state
8 proceeding in a way that *Younger* disapproves." *San Jose Silicon Valley Chamber of Commerce*
9 *Political Action Comm. v. City of San Jose*, 546 F.3d 1087, 1092 (9th Cir. 2008). Here, the
10 proceedings are ongoing. Criminal proceedings implicate important state interests. *See Kelly v.*
11 *Robinson*, 479 U.S. 36, 49 (1986) ("[T]he States' interest in administering their criminal justice
12 systems free from federal interference is one of the most powerful of the considerations that
13 should influence a court considering equitable types of relief."). Petitioner may raise his federal
14 claims by way of the state habeas process after his sentencing is finalized. Finally, rulings on
15 the validity of the underlying conviction in this court might interfere with the ongoing state
16 proceedings.

17 Petitioner does not contest that state proceedings are ongoing. Rather, he argues that the
18 resentencing issues on remand do not bear on the claims in his petition and that he will suffer
19 irreparable harm in the absence of federal intervention. ECF No. 31 at 1. These arguments are
20 unavailing. Federal habeas review is closed to petitioner until his conviction is finalized,
21 regardless of the likelihood that ongoing proceedings will render his desired relief. Petitioner has
22 not identified any authority supporting a relevant exception to the *Younger* doctrine. I also reject
23 petitioner's arguments that he cannot await resolution of the state court proceedings either
24 because of certain health issues or because prison conditions are dangerous. ECF No. 31 at 1. If
25 such conditions could establish irreparable harm and circumvent *Younger*, the abstention doctrine
26 would be inapplicable in litigation involving prisoners. *See World Famous Drinking Emporium,*
27 *Inc. v. Tempe*, 820 F.2d 1079, 1082 (9th Cir. 1987) ("[F]ederal courts should not enjoin pending
28 state criminal proceedings except under extraordinary circumstances where the danger of

1 irreparable loss is both great and immediate.”). If petitioner believes that he is not receiving
2 adequate medical treatment, he may file a section 1983 action.

3 Given that I am recommending dismissal, I also deny petitioner’s request for appointment
4 of counsel.

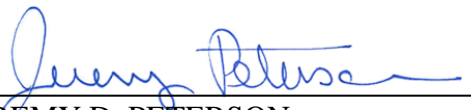
5 It is ORDERED that petitioner’s motion to appoint counsel, ECF No. 31, is DENIED.

6 I recommend that respondent’s motion to dismiss ECF No. 28, be GRANTED and that the
7 petition be dismissed under the abstention doctrine in *Younger v. Harris*, 401 U.S. 37 (1971).

8 These findings and recommendations are submitted to the U.S. district judge presiding
9 over the case under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304. Within fourteen days of the
10 service of the findings and recommendations, the parties may file written objections to the
11 findings and recommendations with the court and serve a copy on all parties. That document
12 must be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” The
13 presiding district judge will then review the findings and recommendations under 28 U.S.C.
14 § 636(b)(1)(C).

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16 IT IS SO ORDERED.

17 Dated: November 29, 2022

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19 JEREMY D. PETERSON
20 UNITED STATES MAGISTRATE JUDGE
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